

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

Plaintiff

vs.

Civil Action No. 04-303-Erie

LARRY W. LAFFERTY AND
BETH A. LAFFERTY

Defendants

**MOTION UPON DEFAULT FOR JUDGMENT IN MORTGAGE FORECLOSURE AS TO
DEFENDANTS LARRY W. LAFFERTY AND BETH A. LAFFERTY**

AND NOW comes the United States of America, by its attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania and The Bernstein Law Firm, P.C. and pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure, respectfully moves the Court upon default of Defendant to enter a judgment in Mortgage Foreclosure and for Deficiency Judgment in favor of Plaintiff and against Defendants, Larry W. Lafferty and Beth A. Lafferty. In further support of its Motion, Plaintiff respectfully avers as follows:

1. On October 14, 2004, Plaintiff filed a Complaint in Mortgage Foreclosure and for Deficiency Judgment against Defendants.
2. On October 25, 2004, Defendants were mailed a copy of the Complaint and Notice of Lawsuit and Request for Waiver of Service of Summons. On October 28, 2004, Defendant, Larry E. Lafferty, executed the Waiver of Service of Summons, which was filed with the Court on November 2, 2004.
3. Defendant, Beth A. Lafferty failed to return an executed Waiver of Service of Summons.
4. Plaintiff attempted service on Defendant, Beth A. Lafferty through the U.S. Marshal's Office on December 20 2004.
5. Subsequently, Defendant, Beth A. Lafferty, filed a chapter 7 Bankruptcy.
6. Plaintiff filed a suggestion of Bankruptcy on January 24, 2005.
7. The U.S. Marshal's Office made an executed return of service on Beth A. Lafferty on January 20, 2005, however, said service was invalid due to the bankruptcy filing.
8. The Bankruptcy filed by Defendant, Beth A. Lafferty, was discharged on April 26, 2005.

9. Plaintiff filed a Motion for Enlargement of Time to Serve Defendant, Beth A. Lafferty on May 15, 2005, which was granted on May 18, 2005.
10. Plaintiff attempted service on Defendant, Beth A. Lafferty, through the U.S. Marshals Office on May 23, 2005.
11. The U.S. Marshal's Office made an unexecuted return of service on June 29, 2005
12. Plaintiff filed a Motion for Alternate Service as to Defendant, Beth A. Lafferty, on September 7, 2005, which was granted on September 7, 2005
13. Plaintiff filed its Motion for Second Enlargement of Time to Serve Defendant, Beth A. Lafferty on September 19, 2005, which was granted on September 20, 2005.
14. Plaintiff attempted service on Defendant, Beth A. Lafferty, through the U.S. Marshal's office on December 1, 2005.
15. However, the U.S. Marshal made an unexecuted return of service on January 31, 2006.
16. Plaintiff filed its Motion for Third Enlargement of Time to serve Defendant, Beth A. Lafferty on March 3, 2006, which was granted on March 3, 2006
17. Plaintiff attempted service through the U.S. Marshal's office by alternate means in accordance with the court order dated September 7, 2005, as to Defendant, Beth A. Lafferty on March 8, 2006.
18. The U.S. Marshal made an executed return of service as to Defendant Beth A. Lafferty on April 7, 2006
19. Defendants, Larry W. Lafferty and Beth A. Lafferty, have not answered or asserted any defense in this action as provided by the Federal Rules of Civil Procedure.
20. To the best of Plaintiff's knowledge, information and belief, Defendants are not infants, incompetent, or in the military service of the United States of America.
21. In light of the Defendants' failure to answer or assert a defense as provided by the Federal Rules of Civil Procedure, Plaintiff filed with the Court a Request for Entry of Default in accordance with Rule 55(a) of the Federal Rules of Civil Procedure.

22. The amounts due Plaintiff from Defendants, Larry W Lafferty and Beth A. Lafferty, are as follows;

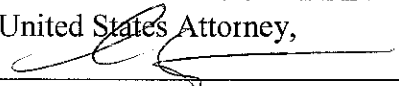
(a) Principal and Advances	\$75,125.51
(b) Interest through 5/10/06	\$16,161.83
(d) Interest Credit Subject to Recapture	\$ 20,642.36
(e) Attorney fees	\$ 915.00
Total	\$112,844.70

together with interest at 9% per annum to the date of Judgment, plus interest accruing from the date of Judgment at the legal rate and costs.

WHEREFORE, Plaintiff, the United States of America, respectfully request the Court:

- a. Grant Plaintiff's Motion and, accordingly, enter Judgment against Defendants;
- b. That the Plaintiff be paid the amount adjudged to be due and owing Plaintiff, with interest thereon to the time of such payment, together with costs and expenses incurred by this action and by any sale of the subject property;
- c. That a judgment in personam be entered against Defendant, Larry W. Lafferty, only, as to any deficiency remaining for the balance due on the default judgment as a deduction of monies received from the sale of the subject property;
- d. Expose the subject property to sale for the purpose of satisfying Plaintiffs' Judgment; and
- e. Grant Plaintiff such other and further relief as the Court deems just and proper.

Respectfully submitted,
 MARY BETH BUCHANAN
 United States Attorney,


 LORI A. GIBSON, ESQUIRE
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 Pittsburgh, PA 15219

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Defendants,

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion Upon Default for Judgment in Mortgage Foreclosure was served on the following parties on the 11 day of May, 2006 by U S., First-Class Mail.

LARRY W LAFFERTY
4230 S WASHINGTON STREET
NORTH EAST, PA 16428

BETH A. LAFFERTY
4230 S. WASHINGTON STREET
NORTH EAST, PA 16428

BETH A. LAFFERTY
3211 SKELLIE AVENUE
ERIE, PA 16510



LORI A. GIBSON
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